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| APPLICATION NO.                                                                                                                                  | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO.        | CONFIRMATION NO.       |
|--------------------------------------------------------------------------------------------------------------------------------------------------|-------------|----------------------|----------------------------|------------------------|
| 10/698,141                                                                                                                                       | 10/31/2003  | Edward Alan Clark    | LUC-433/Clark 10           | 2903                   |
| <div>32205      7590      01/10/2008<br/>PATTI, HEWITT &amp; AREZINA LLC<br/>ONE NORTH LASALLE STREET<br/>44TH FLOOR<br/>CHICAGO, IL 60602</div> |             |                      |                            |                        |
|                                                                                                                                                  |             |                      | EXAMINER<br>PHAN, JOSEPH T |                        |
|                                                                                                                                                  |             |                      | ART UNIT<br>2614           | PAPER NUMBER           |
|                                                                                                                                                  |             |                      | MAIL DATE<br>01/10/2008    | DELIVERY MODE<br>PAPER |

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

**Application No.**

10/698,141

**Applicant(s)**

CLARK, EDWARD ALAN

**Examiner**

Joseph T. Phan

**Art Unit**

2614

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 31 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Rejections - 35 USC § 112*

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 1 and 17 rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

Claims 1 and 17 are Single Means Claims. A single means claim, i.e., where a means recitation does not appear in combination with another recited element of means, is subject to an undue breadth rejection under 35 U.S.C. 112, first paragraph. In re Hyatt, 708 F.2d 712, 714-715, 218 USPQ 195, 197 (Fed. Cir. 1983) (A single means claim which covered every conceivable means for achieving the stated purpose was held nonenabling for the scope of the claim because the specification disclosed at most only those means known to the inventor.). When claims depend on a recited property, a fact situation comparable to Hyatt is possible, where the claim covers every conceivable structure (means) for achieving the stated property (result) while the specification discloses at most only those known to the inventor. See MPEP 2164.08(a).

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claim 20 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 20 recites "an article comprising computer-readable signal-bearing media" which contradict each other as 'an article' is an apparatus which does not comprise of 'signal-bearing media'. Appropriate clarification and/or correction is required.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 1-20 rejected under 35 U.S.C. 102(e) as being anticipated by Benedyk et al.,  
Pub.No. US 2005/0033684 A1.

Regarding claim 1, Benedyk teaches an apparatus(100 Fig.1), comprising:  
a Customer Premise Equipment (CPE) application server component(108 Fig.1) that provides one or more services(page 1 para 0005) to a telephony device(106 Fig.1) on a call through employment of one or more data streams associated with the call(104 Fig.1 and page 2 para 0017).

Regarding claim 2, Benedyk teaches the apparatus of claim 1, wherein the CPE application server component establishes the one or more data streams with a user-related

application server component(page 2 para 0017); wherein the CPE application server component provides the one or more services to the user-related application server component through employment of the one or more data streams(page 2 para 0017).

Regarding claim 3, Benedyk teaches the apparatus of claim 2, wherein the user-related application server component establishes one or more web portals with the telephony device(page 2 para 0017; internet is a web portal); wherein the CPE application server component and the user-related application server component provide the one or more services to the telephony device through employment of the one or more web portals(page 2 para 0017-0018 and para 0037-0039).

Regarding claim 4, Benedyk teaches the apparatus of claim 3, wherein the CPE application server component and the user-related application server component provide one or more interfaces associated with the one or more services through employment of the one or more web portals(para 0018).

Regarding claim 5, Benedyk teaches the apparatus of claim 3, wherein the CPE application server component and the telephony device establish the call(para 0018); wherein the CPE application server component provides one or more interfaces to allow the telephony device to initiate a request to the CPE application server component(para 0018); wherein in response to the request from the telephony device to the CPE application server component, the CPE application server component alters the call(para 0018-0019).

Regarding claim 6, Benedyk teaches the apparatus of claim 5, wherein the call comprises a voice menu, wherein the CPE application server component updates the voice menu based on the request(para 0019-0020).

Regarding claim 7, Benedyk teaches the apparatus of claim 6, wherein a plurality of voice menus comprise the voice menu, wherein the CPE application server component provides a first voice menu of the plurality of voice menus to the telephony device(para 0019); wherein in response to the request from the telephony device to the CPE application server component, the CPE application server component halts the first voice menu and provides a second voice menu of the plurality of voice menus based on the employment of the one or more services(para 0036-0037).

Regarding claim 8, Benedyk teaches the apparatus of claim 5, wherein in response to the request from the telephony device to the CPE application server component, the CPE application server component routes the call(page 5 para 0037).

Regarding claim 9, Benedyk teaches the apparatus of claim 5, wherein the CPE application server component provides a first one or more services to the telephony device(para 0036); wherein in response to the request from the telephony device to the CPE application server component, the CPE application server component provides a second one or more services to the telephony device(para 0037).

Regarding claim 10, Benedyk teaches the apparatus of claim 4, wherein the one or more interfaces comprise one or more eXtended Markup Language (XML) interfaces(para 0039); wherein the CPE application server component communicates with the user-related application server component to provide the one or more eXtended Markup Language interfaces(para 0039).

Regarding claim 11, Benedyk teaches the apparatus of claim 2, wherein the CPE application server component requests of the user-related application server component to

establish the one or more web portals through employment of the HyperText Transport Protocol (HTTP) (para 0039).

Regarding claim 12, Benedyk teaches the apparatus of claim 1, wherein the CPE application server component comprises a first application server component, further comprising: a second application server component(120 Fig.1); wherein the first application server component and the telephony device cooperate to establish the call(para 0035); wherein the first application server component and the second application server component provide the one or more services to the telephony device through employment of the one or more data streams(para 0039).

Regarding claim 13, Benedyk teaches the apparatus of claim 12, wherein the first application server component provides one or more interfaces associated with the one or more services that allow the telephony device to interact with the one or more services(page 4 para 0034-0035), wherein the first application server component provides the one or more interfaces to the second application server component(120-125 Fig.1) through employment of the one or more data streams(para 0036-0037); wherein the second application server component establishes one or more web portals with the telephony device(120 Fig.1 and page 5 para 0039); wherein the first application server component and the second application server component provide the one or more interfaces through employment of the one or more web portals(para 0039).

Regarding claim 14, Benedyk teaches the apparatus of claim 13, wherein the first

application server component associates the call with the one or more services, wherein the first application server component associates the one or more services with the one or more interfaces(para 0035-0037);

wherein the first application server component and the second application server component provide the one or more services that allow the telephony device to perform a request(para 0035-0037);

wherein in response to the request from the telephony device to the second application server component, the second application service component and the first application server component update the one or more services(para 0036-0037).

Regarding claim 15, Benedyk teaches the apparatus of claim 12, wherein the first application server component comprises a voice mail system, wherein the voice mail system associates the call with a plurality of voice menus, wherein the voice mail system and the telephony device cooperate to establish a voice mail call(para 0035);

wherein the voice mail system and the second application server component cooperate to provide a first voice menu of the plurality of voice menus associated with the call to the telephony device(para 0035);

wherein the voice mail system and the second application server component provide one or more interfaces to allow the telephony device to perform a selection of a second voice menu of the plurality of voice menus(para 0035-0036);

wherein in response to the selection of the second voice menu from the telephony device to the voice mail system, the voice mail system updates the voice mail call to play the second voice menu to the telephony device(para 0036-0037).



Regarding claim 16, Benedyk teaches the apparatus of claim 12, wherein the first application server component comprises a interactive voice response system, wherein the interactive voice response system associates the call with a plurality of voice menus, wherein the interactive voice response system and the telephony device cooperate to establish an interactive voice response call(para 0035-0036); wherein the interactive voice response system and the second application server component provide a first voice menu of the plurality of voice menus associated with the interactive voice response call to the telephony device(para 0035-0036); wherein the interactive voice response system and the second application server component provide one or more interfaces to allow the telephony device to perform a selection of a second voice menu of the plurality of voice menus(para 0035-0036); wherein in response to the selection of the second voice menu from the telephony device to the interactive voice response system, the interactive voice response system routes the interactive voice response call(para 0037).

Regarding claim 17, Benedyk teaches the method, comprising the step of: providing, by one or more CPEs, one or more services to a telephony device on a call through employment of one or more data streams associated with the call(page 4 para 0035).

Regarding claim 18, Benedyk teaches the method of claim 17, wherein the step of providing, by the one or more portions of Customer Premise Equipment, the one or more services to the telephony device on the call through employment of the one or more data streams associated with the call comprises the steps of: providing one or more interfaces associated with the one or more services to the telephony

device through employment of one or more web portals(page 2 para 0018 and page 5 para 0039); providing for a request of the one or more services through the one or more interfaces(para 0035); and updating the call based upon the request of the one or more services through the one or more interfaces(para 0037).

Regarding claim 19, Benedyk teaches the method of claim 17, wherein the step of providing, by one or more portions of Customer Premise Equipment, the one or more services to the telephony device on the call through employment of the one or more data streams associated with the call comprises the steps of:

providing for an employment of the one or more services through the one or more interfaces(para 0035-0036); and

routing the call based upon the employment of the one or more services(para 0037-0039).

Regarding claim 20, Benedyk teaches an article, comprising: one or more computer-readable signal-bearing media; means in the one or more media for providing, by one or more CPEs, one or more services to a telephony device on a call through employment of one or more data streams associated with the call(para 0035-0037).

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph T. Phan whose telephone number is (571) 272-7544. The examiner can normally be reached on Mon-Fri 9am-6pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Fan Tsang can be reached on (571) 272-7547. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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JTP

December 21, 2007



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